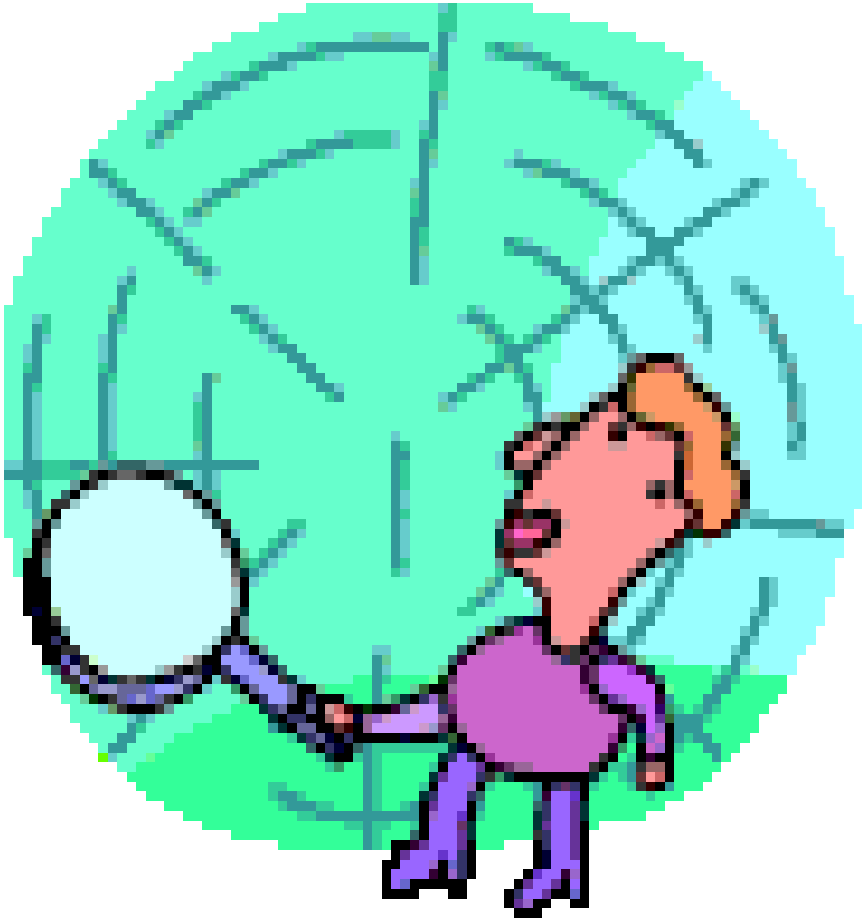
COMMANDER TRAINING:
HOW TO REFER A SERVICE MEMBER FOR MENTAL HEALTH EXAMINATION (MHE)

Joint/Army



Agenda

Joint/Arm

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References

Joint/Army

- DoD Directive 6490.1, “Mental Health Evaluations of Members of the Armed Forces,” October 1, 1997
- DoD Instruction 6490.4, “Requirements for Mental Health Evaluations of Members of the Armed Forces,” August 28, 1997
- Section 546 of Public Law 102-484, “National Defense Authorization Act for Fiscal Year 1993,” October 1992
- Section 546, 10 USC 1074, “Mental Health Evaluations of Members of the Armed Forces”
- DoD Directive 7050.6, “Military Whistleblower Protection,” August 12, 1995

Be sure to review DoDD 6490.1 and DoDI 6490.4

Reprisal

- No person may refer a SM for MHE as a reprisal for making or preparing a lawful communication to a Member of Congress, any appropriate authority in the chain of command of the SM, an IG or a member of a DoD audit, inspection, investigation or law enforcement organization
- No person may restrict a SM from lawfully communicating with an IG, attorney, Member of Congress, or other person about the SM's referral for a MHE

An SM is referred for a MHE to determine the SM's mental health status and/or fitness and/or suitability for service

Before the referral
(1 of 2)

- CO shall consider information and recommendations about SM provided by social workers or other DoD personnel assigned duties under the FAP, or rehabilitation and referral programs for alcohol and drug abusers – no requirement to seek out information (DoDI 6490.4 6.3.2.2.)
- Consult MHCP to discuss the SM's actions and behaviors believed to warrant a MHE
  - If MHCP is not available, consult a physician, if available, or the senior privileged non-physician provider
  - The MHCP must provide advice and recommendations about whether the evaluation should be conducted routinely or on an emergency basis

Use emails or MFRs to document your consultation with MHCP

Before the referral
(1 of 2)

Joint/Arm

- For non-emergency referrals, the CO shall forward to the CO of the MTF or clinic a memorandum formally requesting a MHE (If CO of MTF is requesting referral, send memorandum to Chairman of Mental Health department) IAW enclosure 3 of DoDI 6490.4
- For emergency referrals, the CO shall make every effort to consult a MHCP or, if unavailable, a physician, or the senior privileged non-physician provider present, as soon as practical
  - If unable to consult with the MHCP or other privileged healthcare provider, prior to transporting the SM for evaluation, forward a memorandum documenting the circumstances and observations about the SM that led to your decision to refer the SM on an emergency basis
  - Forward the memorandum by facsimile, overnight mail or courier to the MHCP or other privileged healthcare provider, if a MHCP is not available, as soon as is practical
- Provide JAG if SM requests advice from an attorney, at no cost to SM, to advise the SM of ways in which he or she may seek redress (If a military attorney is not reasonably available, make every effort to provide legal consultation by telephone)

Formal request memorandum for routine; MFR required for emergency if unable to consult

The Written Memorandum

- Provide written memorandum with statement of rights at least 2 business days before a routine (non-emergency) evaluation and, as soon as is practicable, for an emergency evaluation
- This memorandum shall include a brief factual description of the behavior and / or verbal communications that led to the decision; name(s) of MHCP(s) with whom CO consulted before making the referral, and if not possible the reasons why; SM's Statement of Rights; date, time, and place the MHE is scheduled and the name and rank of the MHCP who will conduct the evaluation; and the titles and telephone numbers of other authorities, including attorneys, IGs, and chaplains, who can assist the SM who wishes to question the necessity of the referral
- If geographical isolation prevents compliance with any procedures or rights, prepare additional memorandum documenting reasons and give a copy to SM
- Print name and sign memorandum
- Ask SM to acknowledge receipt of memorandum by signing the memorandum (If SM refuses or declines to sign the memorandum, ask for their reasons, annotate the reasons, and ask a witness to sign and date
- Provide copies of the signed memorandum to the SM and the MHCP
- Don't offer to waive rights

Bring a witness

Transportation

- Take precautions to ensure the safety of the SM and others, pending arrangements for and transportation to the evaluation

Whoever participates in safe transport can be a witness

Emergency MHEs

- Refer a SM for an emergency MHE as soon as is practicable whenever a SM, by actions or words, such as actual, attempted or threatened violence, intends or is likely to cause serious injury to himself, herself or others and when the facts and circumstances indicate that the SM's intent to cause such injury is likely to cause serious injury to himself, herself or others and when the facts and circumstances indicate that the SM's intent to cause such injury is likely and when you believe that the SM may be suffering from a severe mental disorder
- Your first priority is to protect the SM and potential victims from harm
- Prior to transporting the SM for the emergency evaluation, or shortly thereafter, if the time and nature of the emergency do not permit, make every effort to consult with a MHCP, or other healthcare provider if a MHCP is not available, at the MTF where the SM will be transported
- Take actions to safely convey the SM to the nearest MHCP, or, if unavailable, a physician, or the senior privileged non-physician provider present, as soon as is practical
- As soon as practicable, provide the SM with the written memorandum and statement of rights described earlier

If unable to consult, identify a witness who can corroborate the circumstances

Involuntary Hospitalization

- Coordinate with healthcare provider, as soon after admission as the SM's condition permits, to inform the SM of the reasons for his or her admission (evaluation and/or treatment), the likely consequence(s) of the evaluation and any treatment, and the SM's rights
- If the referral was done on an emergency basis and there was not time to provide the SM with the written memorandum, inform the SM of those rights and the other required information as soon after admission as the SM's condition permits (the written memorandum is still required)
- Appoint an attorney if the SM requests one or make every effort to provide legal consultation by telephone if a military attorney is not reasonably available
- Inform the SM of their right to contact a relative, friend, chaplain, attorney, and/or an IG as soon after admission as the SM's condition permits

Explain additional rights to SM and any rights not explained yet

After Receiving MHE Results

Joint/Army

- If MHCP made recommendation, CO shall make a written record of the actions taken and the reasons
- If MHCP recommends separation (co-signed by MHCP's CO) and the CO declines to follow the recommendation, the CO shall forward a memorandum to his or her CO within 2 business days explaining the decision to retain the SM against medical advice

The MHCP has one business day to provide you with the results

Do's and Don'ts

Joint/Army

- DO consult a MHCP before the referral
- DO provide a written memorandum at least 2 days before the MHE
- DO use a witness
- DO appoint an attorney if requested
- DO document actions taken upon receiving results from MHCP
- DO review DoD literature

- DON'T restrict SM from making a protected communication
- DON'T refer SM in reprisal for protected communication
- DON'T offer to waive rights
- DON'T rush through the procedures

Quick review

Conclusion

Joint/Army

- That CPT Kangaroo improperly referred SPC Looney for a nonemergency Mental Health Evaluation in violation of DoDD6490.1 ***WAS NOT SUBSTANTIATED.***
- That CPT Kangaroo improperly referred SPC Looney for a nonemergency Mental Health Evaluation in violation of DoDD6490.1 ***WAS SUBSTANTIATED.***
- *Will an allegation be substantiated against you?*

Review our MHE resources on our IG web site atNVMD

Conclusion

- Consult a MHCP before the referral (if MHCP not available consult doctor, if doctor not available consult senior privileged non-physician provider)
- Make every effort to consult a MHCP for emergency MHEs, but if unable, forward a memorandum by facsimile, overnight mail or courier to the MHCP, documenting the circumstances and observations about the SM that led to your decision to refer the SM for an emergency MHE
- For routine MHEs, forward a memorandum to the CO of the MTF formally requesting the MHE (use enclosure 3 from DoDI 6490.4)
- Provide a written memorandum (use enclosure 4 from DoDI 6490.4) at least 2 days before the MHE for routine referrals and as soon as practicable for emergency referrals
  - Use a witness
  - Print name, sign, and date
  - Ask SM to sign and date or state reasons that SM gave for not signing and have witness sign and date
  - Provide copies of written memorandum to SM and MHCP
- Provide an attorney if requested
- Ensure safe transport (for emergency safeguard SM and potential victims)
- For involuntary hospitalization, explain additional rights to SM
- Document actions taken upon receiving results from MHCP
- Send memorandum in 2 business days to your CO explaining your decision to decline following MHCP recommendation to separate

Start a file folder and keep everything organized

Acronyms

- **AKO** – Army Knowledge Online (https://www.us.army.mil)
- **Alcohol & Drug** – Referral and rehabilitation programs for alcohol and drug abusers (DoDD 1010.4 / DoDI 1010.6)
- **CO** – Commanding Officer
- **DoDD** – Department of Defense Directive
- **DoDI** – Department of Defense Instruction
- **FAP** – Family Advocacy Program (DoDD 6400.1)
- **GKO** – Guard Knowledge Online (https://gko.ngb.army.mil – must have AKO account
- **IG** – Inspector General
- **JAG** – Judge Advocate General
- **MFR** – Memorandum for Record
- **MHCP** – Mental Health Care Provider
- **MHE** – Mental Health Evaluation
- **MTF** – Medical Treatment Facility
- **SM** – Service Member

Call an IG if you need help